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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,615	06/29/2001	Gerald W. Fischer	07787.0041-01	5776
	590 10/03/2002			
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW			EXAMINER	
			ALLEN, MARIANNE P	
WASHINGTON, DC 20006		ART UNIT	PAPER NUMBER	
			1631	
			DATE MAILED: 10/03/2002	10

Please find below and/or attached an Office communication concerning this application or proceeding.

,		Application No.	Applicant(s)			
		09/893,615	FISCHER ET AL.			
	Offic Action Summary	Examiner	Art Unit			
		Marianne Allen	1631			
Period fo	The MAILING DATE of this communicati n appears on the cover sheet with the correspondence address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status						
1)	Responsive to communication(s) filed on	<u> </u>				
2a)[_	This action is FINAL . 2b) Thi	is action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims						
4)🖂	Claim(s) 32-44 is/are pending in the application	n.				
	4a) Of the above claim(s) is/are withdrawn from consideration.					
5)	Claim(s) is/are allowed.					
6)	6) Claim(s) is/are rejected.					
7)	7) Claim(s) is/are objected to.					
8) Claim(s) <u>32-44</u> are subject to restriction and/or election requirement. Application Papers						
9)[] 7	The specification is objected to by the Examiner.					
10)[] 1	10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.						
12) The oath or declaration is objected to by the Examiner.						
Priority under 35 U.S.C. §§ 119 and 120						
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) ☐ All b) ☐ Some * c) ☐ None of:						
	1. Certified copies of the priority documents	have been received.				
:	2. Certified copies of the priority documents	have been received in Application	n No			
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.						
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.						
Attachment(s)						
2) 🔲 Notice	of References Cited (PTO-892) of Draftsperson's Patent Drawing Review (PTO-948) ation Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal Pa	PTO-413) Paper No(s) tent Application (PTO-152)			
Patent and Tee	4					

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DETAILED ACTION

Claims 1-31 have been cancelled.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 32-40, 42, and 43-44, drawn to a method for treating or preventing an infection by administering an antibody, classified in class 424, subclass 130.1.
- II. Claim 41, drawn to a method for treating or preventing an infection by administering a peptide mimic, classified in class 514, subclass 12.

The inventions are distinct, each from the other because of the following reasons:

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne P. Allen whose telephone number is 703-308-0666. The examiner can normally be reached on Monday-Friday, 8:30 am - 2:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 703-308-4028. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Marianne P. Allen Primary Examiner Art Unit 1631

mpa

September 23, 2002